

CHAPTER XX.

RAIL FUNDS.

**Drafting note: This proposed chapter gathers all sections related to funding for rail and public transportation.**

§ ~~33.1-221.1-1~~ 33.2-XXX. Fund for construction of industrial access railroad tracks.

A. The General Assembly declares it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial or industrial buildings or facilities. This section is enacted in furtherance of these purposes and is intended to be comparable to the fund for access roads to economic development sites, established pursuant to § ~~33.1-221~~ 33.2-XXX.

B. The funding for this program shall be set forth in the ~~Appropriations Act~~ appropriation act.

C. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the ~~Commonwealth Transportation~~ Board, such funds for constructing, reconstructing, or improving industrial access railroad tracks and related facilities. The Director of the Department of Rail and Public Transportation may consult with the Commissioner of Agriculture and Consumer Services and the Chief Executive Officer of the Virginia Economic Development Partnership, or their designated representatives, concerning applications for funds. Funds shall be spent directly by the Director of the Department of Rail and Public Transportation or by reimbursement of the local entities, private or public.

D. Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existent or prospective, for single industries or industrial subdivisions under firm contract or

already constructed, including those subdivisions owned or promoted by railroad companies and others. Applications for funds must be approved by the local governing body.

E. In deciding whether to construct any such access track, the ~~Commonwealth Transportation~~ Board shall consider the cost thereof in relation to prospective volume of rail traffic, capital investment, potential employment, and other economic and public benefits. The ~~Commonwealth Transportation~~ Board shall adopt procedures to encourage widespread use of the funds; ~~it~~ shall limit allocation of funds so that no county, city, or town receives more than 50 percent of the funds in any one fiscal year unless there are not sufficient applications prior to May 1 of each year to use the available funds; ~~it~~ and shall consider the practices of the Department of Transportation in distributing funds for access roads to economic development sites under § ~~33.1-221.1-1~~ 33.2-XXX.

F. Tracks and facilities constructed with such funds shall be the property of the Commonwealth for the useful life of the project as determined by the Director of the Department of Rail and Public Transportation and shall be made available for use by all common carriers using the railway system to which they connect. The landowners or using businesses shall, prior to the commitment of funds by the Director of the Department of Rail and Public Transportation, be contractually committed to the perpetual maintenance of such tracks and facilities so constructed and to the payment of any costs related to the future relocation or removal of such tracks and facilities.

**Drafting note: Technical changes.**

§ ~~33.1-221.1-1~~ 33.2-XXX. Rail Enhancement Fund.

A. The General Assembly declares it to be in the public interest that railway preservation and development of railway transportation facilities are an important element of a balanced transportation system of the Commonwealth for freight and passengers and further declares it to be in the public interest that the retention, maintenance, improvement, and development of freight and passenger railways are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets, ~~and there~~.

55 B. There is hereby created in the state treasury a special nonreverting fund to be known  
56 as the Rail Enhancement Fund, hereafter referred to as "the Fund," which shall be considered a  
57 special fund within the Transportation Trust Fund, ~~hereafter referred to as "the Fund."~~ B. The  
58 Fund shall be established on the books of the Comptroller, and shall consist of dedications  
59 pursuant to § 58.1-1741 and such funds from other sources as may be set forth in the  
60 appropriation act and shall be paid into the state treasury and credited to the Fund. Interest  
61 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys  
62 remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert  
63 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as  
64 provided in this section. Expenditures and disbursements from the Fund shall be made by the  
65 State Treasurer on warrants issued by the Comptroller upon written request signed by the  
66 Director of the ~~Virginia~~ Department of Rail and Public Transportation or the Director's  
67 designee.

68 C. The Director of the Department of Rail and Public Transportation shall administer  
69 and expend or commit, subject to the approval of the ~~Commonwealth Transportation~~ Board, the  
70 Fund for acquiring, leasing, ~~and/or or~~ improving railways or railroad equipment, rolling stock,  
71 rights-of-way, or facilities, or assisting other appropriate entities to acquire, lease, or improve  
72 railways or railroad equipment, rolling stock, rights-of-way, or facilities, for freight ~~and/or or~~  
73 passenger rail transportation purposes whenever the Board ~~shall have~~ has determined that such  
74 acquisition, lease, ~~and/or or~~ improvement is for the common good of a region of the  
75 Commonwealth or the Commonwealth as a whole. Funds provided in this section may also be  
76 used as matching funds for federal grants to support passenger or freight rail projects.

77 D. Projects undertaken pursuant to this section shall be limited to those the  
78 ~~Commonwealth Transportation~~ Board ~~shall have~~ has determined will result in public benefits to  
79 ~~the Commonwealth or to~~ a region of the Commonwealth or the Commonwealth as a whole that  
80 are equal to or greater than the investment of funds under this section. Such public benefits shall  
81 include, ~~but not be limited to,~~ the impact of the project on traffic congestion, and environmental

quality, and, whenever possible, give due consideration to passenger rail capacity on corridors identified by the ~~Commonwealth Transportation~~ Board that have existing or proposed passenger rail service. Such projects shall include a minimum of 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, ~~or~~ a local government source, or a combination of such sources.

**Drafting note: Technical changes are made, including removing the language "but not limited to" per the definition of "includes" in § 1-218.**

§ ~~33.1-221.1:1.2~~ 33.2-XXX. Shortline Railway Preservation and Development Fund.

A. For the purposes of this section:

"Fund" means the Shortline Railway Preservation and Development Fund.

"Railway transportation support facilities" means facilities required for the loading, transfer, or additional track capacity to facilitate the shipment of goods by rail other than as provided for in § 33.2-XXX or 33.2-XXX.

"Shortline railway" means any Class II or Class III railroad as defined by the U.S. Surface Transportation Board.

B. The General Assembly declares it to be in the public interest that shortline railway preservation and development of railway transportation support facilities are important elements of a balanced transportation system of the Commonwealth for freight and passengers, and further declares it to be in the public interest that the retention, maintenance, and improvement of the shortline railway and development of railway transportation support facilities are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets, ~~and there.~~

C. There is hereby created in the state treasury a special nonreverting fund to be known as the Shortline Railway Preservation and Development Fund, ~~hereinafter in this section referred to as "the Fund." A "shortline railway," for the purposes of this section, shall mean any Class II or Class III railroad as defined by the United States Surface Transportation Board. "Railway transportation support facilities," for the purposes of this section, shall mean facilities~~

~~required for the loading, transfer, or additional track capacity to facilitate the shipment of goods~~  
~~by rail other than as provided for in § 33.1-221.1:1 or 33.1-221.1:1.1.~~ B. The Fund shall be established on the books of the Comptroller and shall consist of such funds from such sources as shall be set forth in the general appropriation act and shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the ~~Virginia~~ Department of Rail and Public Transportation or the Director's designee.

~~C.~~ D. To fulfill this purpose, there shall be funding set forth each year in the budget bill and appropriated by the General Assembly in the Rail Assistance Program of the Department of Rail and Public Transportation. These funds shall be used by the Department of Rail and Public Transportation to administer a Shortline Railway Preservation and Development Program for the purposes described in subsection ~~A.~~ B. Furthermore, the ~~Commonwealth Transportation~~ Board shall include an annual allocation for such purpose in its allocation of transportation revenues.

~~D.~~ E. The Director of the Department of Rail and Public Transportation shall administer and expend or commit, subject to the approval of the ~~Commonwealth Transportation~~ Board, the Fund for acquiring, leasing, ~~and/or~~ or improving shortline railways and the development of railway transportation support facilities or assisting other appropriate entities to acquire, lease, or improve shortline railways and the development of railway transportation purposes whenever the Board ~~shall have~~ has determined that such acquisition, lease, ~~and/or~~ or improvement is for the common good of a region of the Commonwealth or the Commonwealth as a whole. The Director of the Department of Rail and Public Transportation may consult with other agencies or their designated representatives concerning projects to be undertaken under this section.

~~E.-F.~~ Tracks and facilities constructed, and property and equipment purchased, with funds under this section shall be the property of the Commonwealth for the useful life of the project, as determined by the Director of the Department of Rail and Public Transportation, and shall be made available for use by all common carriers using the railway system to which they connect under the trackage rights agreements between the parties. Projects undertaken pursuant to this section shall be limited to those of a region of the Commonwealth or the Commonwealth as a whole. Such projects shall include a minimum of ~~30%~~ 30 percent cash or in-kind matching contribution from a private source, which may include a railroad, a regional authority, private industry, ~~or~~ a local government source, or a combination of such sources. No single project shall be allocated more than ~~50%~~ 50 percent of total available funds.

**Drafting note: Technical changes are made, including moving definitions to the beginning of the section.**

~~§ 33.1-221.1-1.3~~ 33.2-XXX. Intercity Passenger Rail Operating and Capital Fund.

A. The General Assembly declares it to be in the public interest that developing and continuing intercity passenger rail operations and the development of rail infrastructure, rolling stock, and support facilities to support intercity passenger rail service are important elements of a balanced transportation system in the Commonwealth and further declares it to be in the public interest that the retention, maintenance, improvement, and development of intercity passenger rail-related infrastructure improvements and operations are essential to the Commonwealth's continued economic growth, vitality, and competitiveness in national and world markets.

B. (Contingent expiration date) There is hereby created in the state treasury a special nonreverting fund to be known as the Intercity Passenger Rail Operating and Capital Fund, hereafter referred to as "the Fund," which shall be considered a special fund within the Transportation Trust Fund. The ~~Intercity Passenger Rail Operating and Capital~~ Fund shall be established on the books of the Comptroller and shall consist of funds designated pursuant to subdivision A 2 of § 58.1-638.3 and as may be set forth in the appropriation act and by allocation of funds for operations and projects pursuant to this section by the ~~Commonwealth~~

163 ~~Transportation~~ Board in accordance with § ~~33.1-23.1~~ 33.2-XXX. Interest earned on moneys in  
164 the ~~Intercity Passenger Rail Operating and Capital~~ Fund shall remain in the ~~Intercity Passenger~~  
165 ~~Rail Operating and Capital~~ Fund and be credited to it. Any moneys remaining in the ~~Intercity~~  
166 ~~Passenger Rail Operating and Capital~~ Fund, including interest thereon, at the end of each fiscal  
167 year shall not revert to the general fund but shall remain in the ~~Intercity Passenger Rail~~  
168 ~~Operating and Capital~~ Fund. Moneys in the ~~Intercity Passenger Rail Operating and Capital~~ Fund  
169 shall be used solely as provided in this section. Expenditures and disbursements from the  
170 ~~Intercity Passenger Rail Operating and Capital~~ Fund shall be made by the State Treasurer on  
171 warrants issued by the Comptroller upon written request signed by the Director of the ~~Virginia~~  
172 Department of Rail and Public Transportation or his designee.

173 B. (Contingent effective date) There is hereby created in the state treasury a special  
174 nonreverting fund to be known as the Intercity Passenger Rail Operating and Capital Fund,  
175 hereafter referred to as "the Fund," which shall be considered a special fund within the  
176 Transportation Trust Fund. The ~~Intercity Passenger Rail Operating and Capital~~ Fund shall be  
177 established on the books of the Comptroller and shall consist of funds as may be set forth in the  
178 appropriation act and by allocation of funds for operations and projects pursuant to this section  
179 by the ~~Commonwealth Transportation~~ Board in accordance with § ~~33.1-23.1~~ 33.2-XXX. Interest  
180 earned on moneys in the ~~Intercity Passenger Rail Operating and Capital~~ Fund shall remain in the  
181 ~~Intercity Passenger Rail Operating and Capital~~ Fund and be credited to it. Any moneys  
182 remaining in the ~~Intercity Passenger Rail Operating and Capital~~ Fund, including interest  
183 thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the  
184 ~~Intercity Passenger Rail Operating and Capital~~ Fund. Moneys in the ~~Intercity Passenger Rail~~  
185 ~~Operating and Capital~~ Fund shall be used solely as provided in this section. Expenditures and  
186 disbursements from the ~~Intercity Passenger Rail Operating and Capital~~ Fund shall be made by  
187 the State Treasurer on warrants issued by the Comptroller upon written request signed by the  
188 Director of the ~~Virginia~~ Department of Rail and Public Transportation or his designee.

189 C. The Director of the ~~Virginia~~ Department of Rail and Public Transportation or his  
190 designee shall administer and expend or commit, subject to the approval of the ~~Commonwealth~~  
191 ~~Transportation~~ Board, the ~~Intercity Passenger Rail Operating and Capital~~ Fund to support the  
192 cost of operating intercity passenger rail service; acquiring, leasing, ~~and/or or~~ improving  
193 railways or railroad equipment, rolling stock, rights-of-way, or facilities; or assisting other  
194 appropriate entities to acquire, lease, or improve railways or railroad equipment, rolling stock,  
195 rights-of-way, or facilities for intercity passenger rail transportation purposes whenever the  
196 Board ~~shall have~~ has determined that such acquisition, lease, ~~and/or or~~ improvement is for the  
197 common good of a region of the Commonwealth or the Commonwealth as a whole. Funds  
198 provided in this section may also be used as matching funds for federal grants to support  
199 intercity passenger rail projects.

200 D. Capital projects including tracks and facilities constructed and property, equipment,  
201 and rolling stock purchased with funds under this section shall be the property of the  
202 Commonwealth for the useful life of the project, as determined by the Director of the  
203 Department of Rail and Public Transportation, and shall be made available for use by all  
204 intercity passenger rail operations and common carriers using the railway system to which they  
205 connect under the trackage rights or operating agreements between the parties. Projects  
206 undertaken pursuant to this section shall be limited to those of a region of the Commonwealth or  
207 the Commonwealth as a whole. Such projects undertaken pursuant to this section shall not  
208 require a matching contribution; however, projects proposed with matching funds may receive  
209 more favorable consideration. Matching funds may be provided from any source except  
210 Commonwealth Transportation Fund revenues.

211 **Drafting note: Technical changes. This section was amended by Chapter 766 of the**  
212 **Acts of Assembly of 2013 and those changes are reflected in the existing language here.**